

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MAX L. SHEEN, JR.,)	
)	
Claimant,)	IC 2006-007196
v.)	
)	
DUAINE EARL,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Non-Insured Employer,)	AND RECOMMENDATION
Defendant.)	
_____)	FILED APR 24 2007

INTRODUCTION

Pursuant to Idaho Code § 72-506 and Rule 6 of the Industrial Commission Judicial Rules of Practice and Procedure ("JRP"), Referee Douglas A. Donohue entered a default against Employer for failure to answer Claimant's Complaint. Claimant, represented by William A. Parsons, applied for an award or judgment pursuant to JRP 6(b). Claimant submitted his *prima facie* case by affidavit. The case is now ready for decision.

EVIDENCE CONSIDERED

The record consists of the legal file of this matter. Having considered the evidence, the Referee submits and recommends the following findings of fact and conclusions of law for adoption by the Commission.

FINDINGS OF FACT

1. Claimant was injured in a compensable accident. He injured his right hand and left ankle falling from a ladder. He incurred medical bills amounting to \$12,177.42. These medical bills are reasonable. Under Idaho Code § 72-432, Employer is required to pay them.
2. Employer failed to carry workers' compensation insurance as required by law.
3. Claimant filed a timely Complaint. Employer failed to answer as required by statute and JRP.

4. Having received due notice, Default was entered against Employer.

DISCUSSION AND FURTHER FINDINGS

5. Claimant requests medical benefits and attorney fees. No claim is made for income benefits. Claimant does not request future medical benefits.

6. The 10% penalty for failing to procure workers' compensation insurance as required by Idaho Code § 72-210 is applicable and should be assessed in the amount of \$1,217.74.

7. Claimant is entitled to attorney fees under Idaho Code §§ 72-210, -804, or both. Claimant's affidavit requests attorney fees in the amount of \$767.80. This is a reasonable attorney fee as it is less than 25% of the award.

CONCLUSIONS OF LAW

1. Claimant is entitled to medical benefits in the amount of \$12,177.42;
2. Claimant is entitled to payment of the statutory penalty in the amount of \$1,217.74; and
3. Claimant is entitled to attorney fees in the amount of \$767.80.

RECOMMENDATION

Based upon the foregoing findings of fact and conclusions of law, the Referee recommends that the Commission adopt these findings and conclusions as its own and issue an appropriate final order.

DATED this 23RD day of April, 2007.

INDUSTRIAL COMMISSION

/S/ _____
Douglas A. Donohue, Referee

ATTEST:

/S/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 24TH day of APRIL, 2007, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by regular United States Mail upon each of the following:

William A. Parsons
P.O. Box 910
Burley, ID 83318

Duaine Earl
488 West 30 North
King Star Drive
Burley, ID 83318

db

/S/_____

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MAX L. SHEEN, JR.,)	
)	
Claimant,)	IC 2006-007196
v.)	
)	
DUAINE EARL,)	ORDER
)	
Non-Insured Employer,)	
Defendant.)	FILED APR 24 2007
_____)	

Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his proposed findings of fact and conclusions of law to the members of the Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant is entitled to medical benefits in the amount of \$12,177.42.
2. Claimant is entitled to payment of the statutory penalty in the amount of \$1,217.74.
3. Claimant is entitled to attorney fees in the amount of \$767.80.

4. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this 24TH day of APRIL , 2007.

INDUSTRIAL COMMISSION

/S/_____
James F. Kile, Chairman

/S/_____
R. D. Maynard, Commissioner

/S/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

/S/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 24TH day of APRIL , 2007, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following:

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